

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

David Leibowitz, et al.

CIVIL ACTION NO.: 1:19-CV
-09236-KPF

vs

Plaintiff

iFinex Inc., et al.

Defendant

AFFIDAVIT OF SERVICE

State of New York }
County of Suffolk } ss.:

The undersigned, being duly sworn, deposes and says:

Deponent is not a party herein, is over 18 years of age and resides in the state of New York,

That on 10/18/2019 at 6:02 PM at 205 Cottage Walk, Ocean Beach, NY 11770

deponent served a(n) **Summons in a Civil Action and Class Action Complaint, Jury Trial Demanded**

on Philip G. Potter,

by affixing a true copy of each to the door of said premises, which is defendant's dwelling place/usual place of abode within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion thereat, having attempted service there:

10/12/2019 2:23 PM 205 Cottage Walk, Ocean Beach, NY 11770
10/17/2019 7:36 AM 205 Cottage Walk, Ocean Beach, NY 11770
10/18/2019 6:02 PM 205 Cottage Walk, Ocean Beach, NY 11770

Within 20 Days of such affixing deponent mailed a copy of same by first class mail in a postpaid envelope properly addressed to defendant at defendant's last known residence at 205 Cottage Walk, Ocean Beach, NY 11770. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant.

Mailed copy on: 10/22/2019

MILITARY SERVICE: Upon information and based upon the search performed on the Department of Defense Manpower Data Center using the defendant's name, social security number and date of birth, deponent avers that the defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act. See print out from Department of Defense Manpower Data Center attached hereto.

Sworn to before me this
22nd day of October, 2019

NOTARY PUBLIC

JENNIFER SIMMONS
NOTARY PUBLIC STATE OF NEW YORK

No. 01SI6332918

Qualified in Suffolk County

My Commission Expires 11-09-2019

Serving By Irving, Inc. | 233 Broadway, Suite 2201 | New York, NY 10279
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Tina Arcuri

Department of Defense Manpower Data Center

Results as of : Oct-22-2019 03:20:26 PM

SCRA 5.1



**Status Report
Pursuant to Servicemembers Civil Relief Act**

SSN: XXX-XX-2312

Birth Date:

Last Name: POTTER

First Name: PHILIP

Middle Name:

Status As Of: Oct-22-2019

Certificate ID: QJ2TB22QHPN0X65

On Active Duty On Active Duty Status Date

Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA

This response reflects the individuals' active duty status based on the Active Duty Status Date

Left Active Duty Within 367 Days of Active Duty Status Date

Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA

This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date

Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA

This response reflects whether the individual or his/her unit has received early notification to report for active duty

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director

Department of Defense - Manpower Data Center

400 Gigling Rd.

Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. ? 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: <https://scra.dmdc.osd.mil/faq.xhtml#Q33>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. ? 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC ? 101(d)(1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC ? 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC ? 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.